

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**MARK MONDRAGON o/b/o
D.M. a minor child,**

Plaintiffs,

vs.

Case No. 1:21-CV-00427 SMV/KRS

**RIO RANCHO PUBLIC SCHOOLS,
BOARD OF EDUCATION and
GEORGE ARCHULETA in his
Individual and official capacity,**

Defendants.

JOINT STATUS REPORT AND PROVISIONAL DISCOVERY PLAN

Pursuant to FED. R. CIV. P. 26(f), a meeting was held on May 6, 2021, at 3:00 p.m. and was attended by:

Todd J. Bullion
300 Central Ave SW, Suite #1000E
Albuquerque, NM 87102
(505) 452-7674
todd@bullionlaw.com
for Plaintiffs

Jerry A. Walz
Walz and Associates, P.C.
133 Eubank Blvd NE
Albuquerque, NM 87123
(505) 275-1800
jerryawalz@walzandassociates.com
for Defendants Rio Rancho Public Schools, Board of Education

Carlos M. Quiñones
Quiñones Law Firm LLC
1223 S. Saint Francis Dr., Ste. C
Santa Fe, NM 87505
(505) 992-1515
quinoneslaw@cybermesa.com
for Defendant George Archuleta

NATURE OF THE CASE

Plaintiffs claim violations of minor D.M.'s federal and state constitutional rights and also claim violations of the New Mexico Tort Claims Act. While in 9th and 10th grade at V. Sue Cleveland High School, D.M. alleges that he was subjected to unlawful and pretextual searches for drugs on his person by a security guard employed by V. Sue Cleveland High School, George Archuleta. Plaintiff claims that George Archuleta inappropriately touched D.M. in an inappropriate manner without justification.

Defendants deny all allegations in Plaintiffs' Complaint.

AMENDMENTS TO PLEADINGS AND JOINDER OF PARTIES

Plaintiff intends to file: Motion to admit evidence that George Archuleta engaged in similar behavior committing sexual assault against two other high school boys, J.M. and L.M. under the pretext of performing his duties as a security guard. Plaintiff D.M. may move to join J.M. and L.M. as co-plaintiffs as they will also be asserting claims against the Defendants.

Plaintiff(s) should be allowed until August 15, 2021 to move to amend the pleadings and until August 15, 2021 to join additional parties in compliance with the requirements of Fed. R. Civ. P. 15(a).

Defendant intends to file: None at this time.

Defendants(s) should be allowed until September 11, 2021 to move to amend the pleadings and until September 11, 2021 to join additional parties in compliance with the requirements of Fed. R. Civ. P. 15(a).

STIPULATIONS

The parties hereto stipulate and agree that venue is properly laid in this District; that the United States District Court for the District of New Mexico has jurisdiction of the parties and the subject matter.

The parties further stipulate and agree that the law governing this case is 42 U.S.C. § 1983 and the New Mexico Tort Claims Act.

Defendant Archuleta was employed by Defendant Board of Education of Rio Rancho Public Schools as a campus security aide at Cleveland High School.

PLAINTIFF'S CONTENTIONS:

Plaintiff's Contentions: D.M. contends that he was searched pretextually by George Archuleta, an employee of Defendant Board of Education of Rio Rancho Public Schools, in the course and scope of George Archuleta's employment and under color of law. D.M. contends that he was touched inappropriately during these searches as detailed in the complaint filed in this matter. D.M. contends that the school policies in place were inadequate to prevent the harm that he suffered. D.M. further contends that George Archuleta and the school violated the policies that were in place. D.M. contends that he has suffered damages as a result of the Defendants' conduct.

DEFENDANTS' CONTENTIONS

Defendants Rio Rancho Public Schools, Board of Education's Contentions: That there were proper policies and procedures in place relating to stop, search and seizure of students and at all times such policies and procedures would have been followed if in fact any interactions occurred between co-Defendant George Archuleta and Plaintiff D.M. Further, co-Defendant George Archuleta was properly hired, trained and supervised at all times and there were no known complaints made against George Archuleta and further there is no record of any complaint of any type regarding any alleged interaction with the minor Plaintiff D.M.

Defendant George Archuleta's Contentions: Defendant Archuleta was employed by Defendant Board of Education of Rio Rancho Public Schools as a campus security aide at

Cleveland High School. At all relevant times, Defendant Archuleta complied and followed policies and procedures in place related to searches of students. He denies Plaintiff's allegations. Defendant Archuleta fully incorporates and adopts by reference herein his Answer and Affirmative Defenses to Plaintiff's Complaint filed May 13, 2021 (Doc. # 4).

PROVISIONAL DISCOVERY PLAN

The parties jointly propose to the Court the following discovery plan: *(Use separate paragraphs or subparagraphs as necessary if parties disagree.)*

List all witnesses who, at this time, you think will either testify or be deposed, giving their name, title, address and a brief summary of their testimony. It is insufficient to list witnesses' addresses, save for clients, "in care of counsel."

List all documents which you believe, at this time, will be exhibits at the trial.

List all experts who you believe, at this time, will testify at the trial, giving their name, address, area of expertise, and a brief summary of the anticipated testimony.

Plaintiffs' Witnesses:

1. George Archuleta, c/o Carlos M. Quiñones, Esq., 1223 S. Saint Francis Dr., Ste. C, Santa Fe, New Mexico, 87505 (505) 992-1515. It is expected that Mr. Archuleta will testify regarding any interactions between himself and D.M.
2. V. Scott Affentranger, Principal, c/o Jerry A. Walz, 133 Eubank Blvd NE, Albuquerque, NM 87123 (505) 275-1800. It is expected that Principal Affentranger will testify as to George Archuleta's employment, school policies, any complaints made against any person regarding George Archuleta, any complaints made by any person regarding other school security personnel, and any instances in which V Sue Cleveland Highschool is alleged to have permitted sexual harassment.
3. D.M. in c/o Jason Bowles 4811 Hardware Drive, N.E., Building D, Suite 5, Albuquerque, NM 87109 505-207-2681. It is expected that D.M. will testify to the facts in his complaint and will also testify as to how the Defendants' conduct has caused him harm. D.M. will also testify to observing Defendant Archuleta engage in similar harmful conduct with two classmates, J.M. and L.M.
4. Mark Mondragon in c/o Jason Bowles 4811 Hardware Drive, N.E., Building D, Suite 5, Albuquerque, NM 87109 505-207-2681. Mark Mondragon is D.M.'s father. It is expected that he will testify as to the changes he has observed in his son since he attended V. Sue Cleveland Highschool and will testify to the harm the Defendants' actions have caused D.M.

5. Elsie Mondragon in c/o Jason Bowles 4811 Hardware Drive, N.E., Building D, Suite 5, Albuquerque, NM 87109 505-207-2681. Elsie Mondragon is D.M.'s mother. It is expected that she will testify as to the changes she has observed in her son since he attended V. Sue Cleveland Highschool and will testify to the harm the Defendants' actions have caused D.M.
6. J.M. in c/o Jason Bowles 4811 Hardware Drive, N.E., Building D, Suite 5, Albuquerque, NM 87109 505-207-2681. It is expected that J.M. will testify that George Archuleta engaged in pretextual searches of J.M. and touched J.M. inappropriately.
7. L.M. in c/o Jason Bowles 4811 Hardware Drive, N.E., Building D, Suite 5, Albuquerque, NM 87109 505-207-2681. It is expected that L.M. will testify that George Archuleta engaged in pretextual searches of L.M. and touched L.M. inappropriately.
8. Rio Rancho Public Schools staff, administrators and other individuals who are unknown at this time.

Plaintiffs' Documents:

1. All documents listed by Defendants
2. All documents exchanged in discovery
3. All documents identified by any other party or in discovery.

Plaintiffs' Experts:

Plaintiff has not yet identified any experts.

Defendants Rio Rancho Public Schools, Board of Education's Witnesses:

1. George Archuleta, c/o Carlos M. Quiñones, Esq., 1223 S. Saint Francis Dr., Ste. C, Santa Fe, New Mexico, 87505 (505) 992-1515. It is expected that Mr. Archuleta will testify regarding any interaction, if any occurred, between himself and D.M.
2. V. Scott Affentranger, Principal, c/o Jerry A. Walz, 133 Eubank Blvd NE, Albuquerque, NM 87123 (505) 275-1800. It is expected that Principal Affentranger will testify as to George Archuleta's employment and the fact that the school district was unaware of any complaints made against him of any type by Plaintiff D.M.
3. Rio Rancho Public Schools staff, administrators and other individuals who are unknown at this time.

Defendants Rio Rancho Public Schools, Board of Education's Documents:

1. George Archuleta Personnel File
2. 6.11.2 NMAC
3. RRPS Policy 1009
4. 2018-2019 V. Sue Cleveland High School Student Handbook
5. 2019-2020 V. Sue Cleveland High School Student Handbook

6. 2020-2021 V. Sue Cleveland High School Student Handbook
7. Rio Rancho Public Schools – Processes and Procedures: Search & Seizure
8. Any and all school records related to D.M.
9. All documents exchanged in discovery
10. All documents identified by any other party

Defendants Rio Rancho Public Schools, Board of Education's Experts:

Defendants Rio Rancho Public Schools, Board of Education have not yet identified any experts. Defendants Rio Rancho Public Schools, Board of Education reserves the right to do so pursuant to the Federal Rules of Civil Procedure and/or the orders of the Court.

Defendant George Archuleta's Witnesses:

1. George Archuleta, Defendant
Albuquerque, NM
c/o Carlos M. Quiñones, Esq.
1223 S. Saint Francis Dr., Ste. C
Santa Fe, NM 87505
(505) 992-1515

Defendant Archuleta will testify regarding his employment with Rio Rancho Public Schools, policies and procedures related to searches of students, and that he had no interactions with Plaintiff D.M. as alleged in Plaintiff's Complaint. Defendant Archuleta is to be contacted through his legal counsel.

2. Mark Mondragon o/b/o D.M., a minor child, Plaintiff
Address unknown
c/o Jason Bowles, Esq.
Bowles Law Firm
4811 Hardware Dr. NE, Ste. D-5
Albuquerque, NM 87109
(505) 217-2680

and

Robert Gorence, Esq.
300 Central Ave. NW, Ste. 1000-E
Albuquerque, NM 87102
(505) 244-0214

and

Todd J. Bullion, Esq.
300 Central Ave. NW, Ste. 1000-E
Albuquerque, NM 87102

(505) 452-7674
Attorneys for Plaintiffs

3. Rio Rancho Public Schools staff, administrators and other individuals who are unknown at this time.
4. Any and all factual witnesses identified by Plaintiff and any other party.

Defendant George Archuleta's Documents:

1. Any and all documents produced by Plaintiff and any other party.
2. Any and all documents that become known during the course of litigation.
3. Any and all documents used solely for rebuttal purposes.

Defendant George Archuleta's Experts:

At this time, Defendant Archuleta has not identified any experts. Defendant Archuleta reserves the right to do so pursuant to the Federal Rules of Civil Procedure and/or the orders of the Court.

Discovery will be needed on the following subjects: *(Brief description of subjects on which discovery will be needed.)*

Discovery will be needed regarding liability and damages.

Maximum of 25 interrogatories by each party to any other party. (Responses due 30 days after service).

Maximum of 25 requests for admission by each party to any other party. (Response due 30 days after service).

Maximum of 10 depositions by Plaintiff(s) and 10 by Defendant(s).

Each deposition (other than of parties) limited to maximum of 4 hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:

from Plaintiff(s) by September 1, 2021

from Defendant(s) by October 1, 2021

Supplementation under Rule 26(e) due every 30 days.

All discovery commenced in time to be complete by November 26, 2021. Discovery on
(*issue for early discovery*) to be completed by _____.

Other Items: (*Use separate paragraphs or subparagraphs as necessary if other parties disagree.*)

PRETRIAL MOTIONS

Plaintiff intends to file: Motion to admit evidence that George Archuleta engaged in similar behavior committing sexual assault against two other high school boys, J.M. and L.M. under the pretext of performing his duties as a security guard. Plaintiff D.M. may move to join claims that J.M. and L.M. will also assert against Defendants. Plaintiff may file motions in limine as needed prior to trial.

Defendants Rio Rancho Public Schools, Board of Education intend to file: Motion to Dismiss, Motion for Summary Judgment, and other applicable motions developed during the litigation.

Defendant George Archuleta intends to file: Motion for Summary Judgment based on Qualified Immunity; Motion for Summary Judgment upon close of discovery; various motions in limine as may be necessary prior to trial; Motion for Costs and Fees.

ESTIMATED TRIAL TIME

The parties estimate trial will require 4 days.

____ This is a non-jury case.

 X This is a jury case.

The parties request a pretrial conference in May 2022.

SETTLEMENT

The possibility of settlement in this case is considered unlikely. The parties request a settlement conference at the close of discovery.

EXCEPTIONS

(Where counsel cannot agree to any recitation herein, exceptions shall be listed.)

APPROVED WITH/WITHOUT EXCEPTIONS
(note exceptions above)

/s/ Electronically Approved 6-09-2021
For Plaintiffs
Jason Bowles, Esq.
Robert Gorence, Esq.
Todd Bullion, Esq.

WALZ AND ASSOCIATES, P.C.

/s/ Jerry A. Walz
JERRY A. WALZ
Attorney for RRPS Defendants
133 Eubank Blvd. NE
Albuquerque, NM 87123
Phone: (505) 275-1800
jerryawalz@walzandassociates.com

QUIÑONES LAW FIRM LLC

/s/ Carlos M. Quiñones
CARLOS M. QUIÑONES, ESQ.
Attorney for Defendant Archuleta
1223 S. Saint Francis Dr., Ste. C
Santa Fe, NM 87505
(505) 992-1515
quinoneslaw@cybermesa.com